IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

WRIT PETITION NO : 15607 of 2005

Between:

N. Vazraiah S/o. Kotaiah, Hindu, R/o. D.No. 74-6-6/1, Swamy Ayyappa Nagar, Veer Savarkar Road, Vijayawada-07.

..... PETITIONER

AND

1. The Chief Security Commissioner, Railway Protection Force, Rail Nilayam, Secunderabad,

2. The Senior Divisional Security Commissioner, Railway Protection Force, S.C. Railway, Vijayawada, Krishna District.

3. Sri S. Sukamara Pillai, Assistant Security Commissioner, Railway Protection Force, Sanchalan Bhavan, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st Respondent in appointing the 3rd Respondent as Enquiry Officer vide proceedings No. X/P.227/Appeal/3/2005 dt. 17-1-2005 to conduct enquiry in the charge sheet No. B/XP.227/153/2004/07 dt. 20-10-2004, is illegal, arbitrary and violative of Articles 14 & 16 of the Constitution of India and consequently direct the Respondent No. 2 to set aside the departmental proceedings conducted from 17-1-2005 and cancel the charge sheet No. B/XP.227/153/2004/07 dt. 20-10-2004 on the grounds narrated in the accompanying affidavit resulting in taking back the petitioner into duty duly revoking from suspension.

Counsel for the Petitioner: MR.J.M.NAIDU

Counsel for the Respondents: MR.A.KRISHNAM RAJU

The Court at the admission stage made the following:

ORDER:

This writ petition is filed aggrieved by the action of the first respondent, who is stated to be the appellate authority, in appointing the third respondent as an Enquiry Officer against the petitioner to conduct domestic enquiry.

The grievance of the petitioner is that as the Enquiry Officer was appointed by the first respondent, who is the appellate authority, the first respondent has been monitoring the proceedings of the Enquiry Officer and as such, he would lose the right of appeal. Hence, the petitioner sought for quashing of the impugned order.

On the other hand, the learned counsel appearing for the respondents contended that the petitioner's claim is only mere apprehension for filing the present writ petition. In fact, when an Enquiry Officer had been appointed by the disciplinary authority on an earlier occasion, the petitioner approached this Court objecting to the same. This Court acceded to the claim of the petitioner and set aside the appointment made by the disciplinary authority and directed to appoint a Superior Officer to that of the petitioner as an Enquiry Officer, pursuant to which, the third respondent, who is the Assistant Security Commissioner, was appointed as an Enquiry Officer by the first respondent. Therefore, there is no merit in the contention of the

learned counsel for the petitioner.

Heard both sides and considered the material on record.

No doubt, in the normal course, the disciplinary authority appoints an Enquiry Officer. However, even if the appellate authority appoints an Enquiry Officer, no prejudice would be caused as the Enquiry Officer works independently on his own not being monitored either by the appellate authority or by the disciplinary authority, conducts enquiry and submits his report and after submission of the report by the Enquiry Officer, it is for the disciplinary authority to consider the said report after calling for the explanation. Therefore, there is no question of losing the right of appeal by the petitioner merely on the ground that the Enquiry Officer was appointed by the appellate authority. The claim of the petitioner is only mere apprehension without any basis.

In any case, the writ petition is disposed of clarifying that neither the appellate authority nor the disciplinary authority has any role to play during the course of enquiry. The role of disciplinary authority would commence only after submission of the enquiry report by the Enquiry Officer.

With the above clarification and observations, the writ petition is disposed of. No costs.

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19.07.2005

VGB

To

1. The Chief Security Commissioner, Railway Protection Force, Rail Nilayam, Secunderabad,

2. The Senior Divisional Security Commissioner, Railway Protection Force, S.C. Railway, Vijayawada, Krishna District.

3. Sri S. Sukamara Pillai, Assistant Security Commissioner, Railway Protection Force, Sanchalan Bhavan, Vijayawada.

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